

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Second Periodic Review of the Commission's
Rules and Policies Affecting the Conversion
To Digital Television

MB Docket No. 03-15
RM 9832

Public Interest Obligations of TV Broadcast
Licensees

MM Docket No. 99-360

Children's Television Obligations of Digital
Television Broadcasters

MM Docket No. 00-167

Standardized and Enhanced Disclosure
Requirements for Television Broadcast Licensee
Public Interest Obligations

MM Docket No. 00-168

Reply Comments of McBride Spectrum Partners, LLC and Scott D. Reiter

McBride Spectrum Partners, LLC ("McBride") and Scott D. Reiter ("Reiter") hereby respectfully submits these reply comments in response to the FCC's Notice of Proposed Rule Making in the above-captioned proceeding.¹ As further described below, McBride & Reiter agrees with a broad number of the comments made that clearly urges the FCC to pursue policies that will expedite the transition to digital television ("DTV") service with important consideration given to the Public Interest and the need for recovering the analog broadcast spectrum as quickly as possible.

¹ Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, 18 FCC Rcd 1279, (rel. Jan. 27, 2003) [*hereinafter* etworks and other commercial applications.

Direct Interest in the Above Proceeding.

McBride & Reiter's interest in these proceedings stem directly from each being successful very small business high-bidders of 700MHz. licenses won in Auction No. 44. McBride is also a qualified bidder in the up-coming re-auction of 700MHz. licenses scheduled to begin May 28, 2003.

McBride & Reiter Support the Following Comments:

- **“Aloha Partners, LLC** The Public Interest would be served by the Commission clarifying that digital stations in the Lower 700 MHz Band that are not now operational must be fully constructed (i.e. full replication and maximization) on or before June 30, 2004 or abandoned.”
- **“Cavalier Group, LLC,** Any station subject to the May 1, 2002 construction deadline that has failed to construct a digital station by May 1, 2003, other than for a truly bona fide reason (of which financial hardship is not a bona fide reason), should be required to forfeit their digital allotment. These Defaulting Stations. have failed to meet their public interest obligation of promoting the DTV transition. Their continued failure to timely construct and operate must be viewed as nothing other than spectrum warehousing.”
- **“Motorola, Inc.** Motorola urges the Commission to take all steps necessary to expedite the DTV transition in order to accomplish the near-term recovery of the analog broadcast spectrum for public safety and other advanced wireless services. In so doing, the Commission should consider as one of its highest priorities the clearing of the 746-806 MHz band of broadcast incumbents so that public safety entities, as well as private wireless users accessing band manager spectrum, can begin utilizing this valuable resource on a nationwide basis.”

- **“Flarion Technologies, Inc.** The Commission should adopt DTV transition rules that will expedite the clearing of the 700 MHz band and facilitate the swift entry of new services and products in the band. The continued presence of television broadcast licensees on non-core channels 52-69 continues to limit the availability and deployment of new equipment and technologies in the 700 MHz band
- **“DataCom Wireless, LLC.** Given the dual goals of DTV transition and the recognized value to the American public of utilizing the Lower 700 MHz Band for wireless services, it is essential that any decisions reached in this docket promote, rather than impede, the rapid development and deployment of innovative services and applications in the *entire* 700 MHz Band, and ensure that this much-needed spectrum is put to its most beneficial use as quickly as possible. DataCom therefore respectfully submits that the Commission should reject any proposals to further extend the May 1, 2005 channel election deadline.”
- **“Harbor Wireless, L.L.C.** In the aggregate, these commencers represent a significant cross-section of the existing 700 MHz licensees and key suppliers. The Commission should take the registered concerns of this group as evidence of a serious problem that requires attention, and not allow the views of well-heeled incumbent broadcasters to overshadow the consensus of emerging 700 MHz wireless service providers.”
- **“Crown Castle USA, Inc.** The spectrum now used for TV channels 52-69 has been allotted for new services that will provide substantial benefit to the American public and the productive use of this spectrum should not be held hostage to a policy that ignores the reality that fewer and fewer households rely on over-the-air broadcast for their television programming.”
- **“Harris Corporation** Harris provided an overview of the status of the DTV transition based upon its unique perspective as a leading supplier of DTV transmission equipment. Harris emphasized the importance of having certainty

with regard to DTV build-out milestones to ensure continued progress is made toward the completion of the transition. Harris discussed the potential need for interim benchmarks beyond those already provided for under current FCC regulations, and the importance of carefully scrutinizing additional requests for extensions of time for broadcasters to commence digital broadcast operations. Finally, Harris provided information on various alternatives that would enable broadcasters to make an optimally cost-effective transition to DTV.”

- **“KanOkla Telephone Association, Inc. Peoples Telephone Cooperative, Inc. and Arctic Slope Telephone Association Cooperative.** Firm deadlines provide the certainty that will allow rural licensees to make concrete plans for the deployment of new services, knowing that the spectrum for which they spent significant amounts of money will be unencumbered. Such certainty will allow the larger companies to make arrangements for the development and purchase of the equipment that will be needed to provide new services in their markets.”
- **“Consumer Federation of America** To speed the fulfillment of the promise, the Congress provided broadcasters with access to a \$70 billion digital spectrum almost a decade ago. The FCC was to be the steward of this immensely valuable public asset. Broadcasters have not fulfilled their responsibilities to a timely transition. This failure makes the blatant corporate welfare that the networks received, free access to the digital spectrum, even more troubling. Of the nation’s 1,304 commercial broadcasters, 780 claim to be on the air. In DTV. But of the 780 the majority 433 is operating under temporary license at less than fully authorized power. These low power stations are not fully replicating their analog service contours in digital. That means that some percentage of homes within their analog service area cannot receive their digital signal. That leaves only 347 broadcasters currently operating full power DTV facilities and only provide digital programming a few hours a day. Broadcasters have a clear business incentive to postpone investment in full power facilities. But while they impose more and more costs on consumers through tuner mandates and mandatory

receiver performance standards, they fail to live up to their obligations to get a full power signal on the air. The FCC must no longer allow broadcasters to stall in performing their piece of the transition equation. They must not be allowed to pass off incremental progress. Low power transmission-- that leaves certain consumers unable to enjoy the benefits of digital technology, while consumers are forced to purchase more costly digital equipment. It is also time to give up the fiction of an 85 percent transition by the end of 2006. Having wasted most of the decade, there is simply no chance that 85 percent of consumers will have DTV-capable sets in their homes. Broadcasters must be required to provide full power digital transmission or give back the spectrum.”

CONCLUSION

The American Public cannot afford to have this valuable resource kept under *Lock & Key* even one day longer than necessary. McBride & Reiter urges the Commission to promote spectrum efficiency and acknowledge the companies who paid millions of dollars for the right to use the spectrum, thereby encouraging the spectrum to be put to its highest and best use. McBride & Reiter urge the Commission to heed the companies who stand ready and willing to invest additional millions of dollars building-out the next generation of wireless services, employing thousands of people and accomplishing precisely what Congress envisioned in 1993, the year it empowered the Commission to auction off the American airwaves. McBride & Reiter respectfully ask the Commission to rattle the keys in its pocket to help unlock the future of ubiquitous mobile broadband services and stay the course of its own Strategic Plan.²

² The FCC's strategic plan for 2003-2008 The FCC's strategic goal for spectrum is to encourage the highest and best use of spectrum domestically and internationally in

order to encourage the growth and rapid deployment of innovative and efficient communications technologies and services.

Respectfully submitted,

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